

BPS-290

June 30, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **05-3056**

IN RE: ROBERT B. OLDHAM

Present: RENDELL, FISHER AND VAN ANTWERPEN, CIRCUIT JUDGES

Submitted are

- (1) Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive motion under 28 U.S.C. § 2254;
- (2) Response; and
- *(3) Reply to the Response, filed July 11, 2005**

in the above-captioned case.

Respectfully,

Clerk

MMW/AJM/dmm

U. S. DISTRICT COURT - DE
MISC. CASE # 05-142

ORDER

The foregoing application to file a second or successive petition under 28 U.S.C. § 2254 is denied. Applicant has not made a prima facie showing that any claim relies on a new rule of constitutional law made retroactive by the Supreme Court, nor does he present a newly-discovered fact which would be sufficient to establish by clear and convincing evidence that, but for the constitutional error, no reasonable factfinder would have found him guilty. See 28 U.S.C. § 2244(b)(2). Because the Applicant has failed to satisfy either standard for filing a second or successive § 2254 petition, his application is denied.

A TRUE COPY:


Kathleen Brouwer,
Chief Deputy Clerk

By the Court,

/s/ Franklin S. Van Antwerpen
Circuit Judge

Dated: July 18, 2005

DMM/cc: Mr. Robert B. Oldham

Loren C. Meyers, Esq.

FILED
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U.S. DISTRICT COURT
DISTRICT OF DELAWARE